IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.107 OF 2006

Hindustan Petroleum Corporation Ltd....Applicants

Versus

Sudhir Radhakumar Tejpal & Ors. ...Respondents

ALONG WITH

CIVIL APPLICATION (STAMP) NO.16265 OF 2006
AND
CIVIL REVISION APPLICATION (STAMP) NO.16262 OF 2006

M/s.Petvin Auto Services ...Applicant

Versus

Sudhir Radhakumar Tejpal & Ors. ...Respondents

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Mr.N.Walawalkar with Mr.M.D.Siodia i/b
Rustomji & Ginwala for Applicants in CRA 107/06 &
for Respondent No.4 in CA (St.) 16265/06 &
CRA (St.) 16262/06.

Mr.Abhay Abhyankar with Mr.Vaibhav Sugdare
for Respondents 1 to 3.

Mr.A.S.Kapse for Respondent No.4 in CRA 107/06 &
for Applicants in CA (St.) No.16265/06 &
CRA (St.) 16262/06.

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CORAM: A.M.KHANWILKAR, J.

JULY 19, 2006.

P.C.

1. Civil Application (Stamp) No.16265 of 2006, which is not on board, is taken on Board and is heard forthwith by consent.

2. Heard Counsel for the parties.

3. As the original Defendant No.1 has already challenged the self-same impugned Judgment in leading Revision Application, delay of 28 days in filing Revision Application filed by Defendant No.2 is condoned in the interest of justice, though opposed by the Counsel for the Respondents.

4. The Revision Application (Stamp) No.16262 of 2006, which is not on Board is heard along with leading Revision Application No.107 of 2006, by consent.

5. Three contentions have been raised on behalf of the Applicants. First argument is that the lease in question was perpetual lease. The second argument is that the Applicants were engaged in manufacturing process, for which reason,

termination notice of 15 days was not enough. The third contention is that the provisions of Maharashtra Rent Act which purports to exempt the Company such as the Applicants from the application of the said Act, are unconstitutional.

6. I will take the last contention first. That issue is no more res-integra. The constitutional validity of the relevant provision has been considered by the Division Bench of our High Court in the case of **M/s.Crompton Greaves Ltd. vs. State of Maharashtra & Ors. reported in AIR 2002 (Bom.) 65**. Following that decision, the issue of constitutional validity of the relevant provisions of the Rent Act will have to be answered against the Applicants. Counsel for the Applicants, however, contends that the correctness of the view taken by the Division Bench of this Court is already pending consideration before the Supreme Court. Counsel, however, fairly accepts that the operation of the Judgement passed by the Division Bench of this Court has not been stayed by the Supreme Court. If it is so, the decision of the Division Bench of our High Court in

M/s.Crompton Greaves Ltd. (supra) is binding on me.

7. That takes me to the first contention raised on behalf of the Applicants that in the fact situation of the present case, it will have to be found that the lease in question was perpetual lease. This question has been answered by two Courts below who have concurrently answered the issue against the Applicants. Merely because some other view is possible, it is not open for this Court to reappreciate the evidence on record so as to overturn the concurrent finding of facts recorded by two Courts below in exercise of revisional jurisdiction. Thus understood, even this grievance of the Applicants does not commend to me.

8. That takes me to the last aspect raised on behalf of the Applicants. According to them, the Applicants were engaged in manufacturing process, for which reason, termination notice of 15 days was not sufficient. In other words, the suit notice was not a valid notice. Even this submission has been carefully considered by the two Courts below

and concurrently answered against the Applicants. It is not open for this Court to overturn concurrent finding of fact reached by the two Courts below on the basis of analysis of materials on record done by the Court below.

9. In my opinion, these Revision Applications are devoid of merits. Hence, dismissed.

10. At this stage, Counsel for the Applicants in both these Revision Applications pray that the Applicants be given some time to challenge the correctness of the order passed by this Court before the Apex Court. This request is opposed by the Counsel for the Respondents. However, as the request is reasonable one, the Applicants are granted six weeks time.

11. In other words, the decree shall not be executed against the Applicants for a period of six weeks from today. This indulgence is shown on Applicants filing usual undertaking before this Court that if further time is not granted by the Supreme Court, they shall vacate the suit premises on or before 31st August 2006. Counsel for the

Applicants points out that in fact, Court Receiver is already appointed in respect of the business of the partnership firm. That is not sufficient to secure the interest of the Respondents. The Applicants shall file usual undertaking before this Court within two weeks from today, as condition precedent for stay.

12. Civil Application and both Revision Applications disposed of on the above terms.

A.M.KHANWILKAR, J.